

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Stacey L. Swank,

Plaintiff,

v.

Case No. 2:20-cv-2396

Commissioner of
Social Security,

Defendant.

ORDER

This matter is before the court for consideration of the April 12, 2021, report and recommendation of the United States magistrate judge to whom this case was referred pursuant to 28 U.S.C. §636(b). The magistrate judge concluded that the administrative law judge erred in his consideration of the opinions of the state agency psychologists because he failed to give a good reason for not including a limitation for "superficial interactions" in plaintiff's residual functional capacity. The magistrate judge recommended that this prong of plaintiff's assignment of error be sustained, that the decision of the Commissioner be reversed, and that the case be remanded pursuant to 42 U.S.C. §405(g), sentence four, for further consideration of the opinions of the state agency psychologists consistent with the report and recommendation.

The report and recommendation specifically advised the parties that failure to object to the report and recommendation within fourteen days of the report "will result in a waiver of the right to de novo review by the District Judge and waiver of the right to appeal the judgment of the District Court." Doc. 20, p. 11. The time period for filing objections to the report and recommendation

has expired, and no party has objected to the report and recommendation.

The court agrees with the report and recommendation of the magistrate judge (Doc. 20) and it is hereby adopted. The first branch of plaintiff's assignment of error is sustained. The decision of the Commissioner is reversed, and this case is remanded to the Commissioner under 42 U.S.C. §405(g), sentence four, for further consideration of the state agency psychologists' opinions consistent with the report and recommendation. The clerk shall enter judgment reversing the decision of the Commissioner and remanding this case.

Date: May 12, 2021

s/James L. Graham
James L. Graham
United States District Judge